



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

Molly Joseph Ward
Secretary of Natural Resources

5636 Southern Boulevard, Virginia Beach, Virginia 23462
(757) 518-2000 Fax (757) 518-2009
www.deq.virginia.gov

David K. Paylor
Director

Maria R. Nold
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT

ISSUED TO

USA Waste of VA Landfills, Inc.

FOR

**Bethel Landfill
Solid Waste Permit No. 580**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and USA Waste of VA Landfills, Inc., regarding the Bethel Landfill, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and -1401.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" or "Landfill" means the Bethel Landfill, located at 100 North Park Lane in Hampton, Virginia, which is operated by USA Waste of VA Landfills, Inc.
5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
6. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
7. "Permit" means Solid Waste Permit No. 580 which was issued under the Virginia Waste Management Act and the Regulations to USA Waste of VA Landfills, Inc. on May 12, 1995.
8. "Regulations" or "VSWMR" means the Virginia Solid Waste Management Regulations, 9 VAC20-80-10 *et seq.*
9. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
10. "USA Waste" means USA Waste of VA Landfills, Inc., a corporation authorized to do business in Virginia and its affiliates, partners and subsidiaries. USA Waste of VA Landfills, Inc. is a "person" within the meaning of Va. Code § 10.1-1400.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 2 (Va. Code §§ 10.1-1408.1 through -1413.1) of the Virginia Waste Management Act addresses Solid Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. On May 12, 1995, USA Waste was granted a permit to operate a municipal solid waste landfill by the Director of DEQ or his designee. The Permit allows USA Waste to dispose of municipal solid waste at the Facility.
2. The Facility has been operated as a municipal solid waste landfill since the Permit was issued. Operations at the Facility are subject to the Virginia Waste Management Act, the Regulations, and the Permit.

3. On September 26, 2014, Department staff inspected the Facility with compliance with the requirements of the Virginia Waste Management Act, the Regulations and the Permit. Based on the inspection and follow-up information, Department staff made the following observations:

USA Waste constructed an alternate bottom liner and changed the configuration of Cell 6 of the Landfill without obtaining prior authorization from the Department

4. 9 VAC 20-81-400(A) requires a permit issued by the Director to operate or modify a solid waste management facility.
5. 9 VAC 20-81-450(A) requires the submittal of a permit application to establish a new solid waste management facility or modify an existing solid waste management facility.
6. 9 VAC 20-81-600(F)(12) lists the addition or modification of a liner, leachate collection system or leachate detection system as a major modification of the permit.
7. On October 10, 2014, based on the September 26, 2014 inspection and follow-up information, the Department issued a Notice of Violation to USA Waste for the violations described in paragraphs C(3) through C(6), above.
8. On October 22, 2014, DEQ met with representatives of USA waste to discuss the violations.
9. Based on the results of the September 26, 2014 inspection, and the October 22, 2014 meeting with USA Waste representatives, the Board concludes that USA Waste has violated 9 VAC 20-81-400(A), 9 VAC 20-81-450(A) and 9 VAC 20-81-600(F)(12) as described in paragraph C(3) through C(6) above.
10. On November 26, 2014, USA waste submitted a permit modification application for the alternate liner design and the reconfiguration of Cell 6.
11. USA Waste has submitted documentation that verifies that the violations described in paragraphs C(3) through C(6), have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it pursuant to Va. Code § 10.1-1455, the Board orders USA Waste, and USA Waste agrees to pay a civil charge of \$31,544.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

USA Waste shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, USA Waste shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of USA Waste for good cause shown by USA Waste, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in the NOV dated October 10, 2014. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For the purposes of this Order and subsequent actions with respect to this Order only, USA Waste admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. USA Waste consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. USA Waste declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by USA Waste to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. USA Waste shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. USA Waste shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. USA Waste shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a) the reasons for the delay or noncompliance;
 - b) the projected duration of any such delay or noncompliance;
 - c) the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d) the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.


9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and USA Waste. Nevertheless, USA Waste agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:

- a) The Director or his designee terminates the Order after USA Waste has completed all of the requirements of the Order;
- b) USA Waste petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c) the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to USA Waste.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve USA Waste from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by USA Waste and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of USA Waste certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind USA Waste to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of USA Waste.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
- 15. By its signature below, USA Waste voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 5 day of June, 2015.



Regional Director
Department of Environmental Quality

USA Waste of VA Landfills, Inc. voluntarily agrees to the issuance of this Order.

Date: 5/4/15 By: [Signature], Director of Disposal Operations
(Person) (Title)

of USA Waste of VA Landfills, Inc.

Commonwealth of Virginia

City/County of Hampton

The foregoing document was signed and acknowledged before me this 4th day of

May, 2015, by Harold S Thacker, who is

Director of Disposal Operations of USA Waste of VA Landfills, Inc. on behalf of
the corporation.

Edith Joann Barlow
Notary Public

359432
Registration No.

My commission expires: 10/31/2017

Notary Seal:

